

[Code of Federal Regulations]
[Title 24, Volume 4, Parts 700 to 1699]
[Revised as of April 1, 1999]
From the U.S. Government Printing Office via GPO Access
[CITE: 24CFR882.801]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

CHAPTER VIII--OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

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Program for Homeless Individuals

Sec. 882.801 Purpose.

Source: 61 FR 48057, Sept. 11, 1996, unless otherwise noted.

The purpose of the Section 8 Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwellings for Homeless Individuals is to provide rental assistance for homeless individuals in rehabilitated SRO housing. The Section 8 assistance is in the form of rental assistance payments. These payments equal the rent for the unit, including utilities, minus the portion of the rent payable by the tenant under the U.S. Housing Act of 1937 (42 U.S.C. 1437 et seq.).

[Code of Federal Regulations]
[Title 24, Volume 4, Parts 700 to 1699]
[Revised as of April 1, 1999]
From the U.S. Government Printing Office via GPO Access
[CITE: 24CFR882.802]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

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Sec. 882.802 Definitions.

In addition to the definitions set forth in 24 CFR part 5 and Sec. 882.102 (except for the definition of "Single Room Occupancy (SRO) Housing" therein) the following will apply:

Agreement to enter into housing assistance payments contract (Agreement). A written agreement between the owner and the HA that, upon satisfactory completion of the rehabilitation in accordance with requirements specified in the Agreement, the HA will enter into a housing assistance payments contract with the owner.

Applicant. A public housing agency or Indian housing authority (collectively referred to as HAs), or a private nonprofit organization that applies for assistance under this program. HUD will require private nonprofit applicants to subcontract with public housing agencies to administer their rental assistance.

Eligible individual ("individual"). An individual who is capable of independent living and is authorized for admission to assisted housing under 24 CFR part 5.

Homeless individual. An individual as described in section 103 of the McKinney Act (42 U.S.C. 11302).

McKinney Act. The Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).

Moderate rehabilitation. Rehabilitation involving a minimum expenditure of \$3,000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to upgrade to decent, safe, and sanitary condition to comply with the Housing Quality Standards or other standards approved by HUD, from a condition below those standards (improvements being of a modest nature and other than routine maintenance).

Private nonprofit organization. An organization, no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual. The organization must:

- (1) Have a voluntary board;

(2) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles, or designate an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting principles; and

(3) Practice nondiscrimination in the provision of assistance. Single room occupancy (SRO) housing. A unit for occupancy by one person, which need not but may contain food preparation, sanitary facilities, or both.

Statement of individual responsibility. An agreement, in the form prescribed by HUD, between the HA and an individual to be assisted under the program, stating the obligations and responsibilities of the two parties.

[61 FR 48057, Sept. 11, 1996, as amended at 63 FR 23855, Apr. 30, 1998]

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[Title 24, Volume 4, Parts 700 to 1699]

[Revised as of April 1, 1999]

From the U.S. Government Printing Office via GPO Access

[CITE: 24CFR882.803]

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Sec. 882.803 Project eligibility and other requirements.

(a) Eligible and ineligible properties. (1) Except as otherwise provided in paragraph (a) of this section, housing suitable for moderate rehabilitation is eligible for inclusion under this program.

Existing structures of various types may be appropriate for this program, including single family houses and multifamily structures.

(2) Housing is not eligible for assistance under this program if it is receiving Federal funding for rental assistance or operating costs under other HUD programs.

(3) Nursing homes and related facilities such as intermediate care or board and care homes; units within the grounds of penal, reformatory, medical, mental, and similar public or private institutions; and facilities providing continual psychiatric, medical, or nursing services are not eligible for assistance under this program.

(4) No Section 8 assistance may be provided with respect to any unit occupied by an owner.

(5) Housing located in the Coastal Barrier Resources System designated under the Coastal Barriers Resources Act is not eligible.

(6) Single-sex facilities are allowable under this program, provided that the HA determines that because of the physical limitations or configuration of the facility, considerations of personal privacy require that the facility (or parts of the facility) be available only to members of a single sex.

(b)(1) Physical condition standards. Section 882.404 applies to this program; however, the lead-based paint requirements in Sec. 982.401(j) of this title do not apply to this program, since these SRO units will not house children.

(2) Site standards. (i) The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed; adequate utilities and streets must be available to service the site. (The existence of a private disposal system and private sanitary water supply for the site, approved in accordance with local law, may be considered adequate utilities.)

(ii) The site must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601-19), E.O. 11063 (as amended by E.O. 12259; 3 CFR, 1959-1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307), and HUD regulations issued pursuant thereto.

(iii) The site must be accessible to social, recreational, educational, commercial, and health facilities, and other appropriate municipal facilities and services.

(c) Financing. Section 882.405 applies to this program.

(d) Relocation. Section 882.406 applies to a project assisted under this program.

(e) HA-owned housing. (1) A unit that is owned by the HA that administers the assistance under the ACC (including a unit owned by an entity substantially controlled by the HA) may only be assisted if:

- (i) The unit is not ineligible under Sec. 882.**803**(a); and
 - (ii) HUD approves the base and contract rent calculations prior to execution of the Agreement and prior to execution of the HAP contract.
- (2) The HA as owner is subject to the same program requirements that apply to other owners in the program.

[61 FR 48057, Sept. 11, 1996, as amended at 63 FR 46579, Sept. 1, 1998]

[Code of Federal Regulations]
[Title 24, Volume 4, Parts 700 to 1699]
[Revised as of April 1, 1999]
From the U.S. Government Printing Office via GPO Access
[CITE: 24CFR882.804]

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Sec. 882.804 Other Federal requirements.

(a) Participation in this program requires compliance with the Federal requirements set forth in 24 CFR 5.105, and with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.).

(b) For agreements covering nine or more assisted units, the following requirements for labor standards apply:

(1) Not less than the wages prevailing in the locality, as determined by the Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 276a through 276a-5), must be paid to all laborers and mechanics employed in the development of the project, other than volunteers under the conditions set out in 24 CFR part 70;

(2) The employment of laborers and mechanics is subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333); and

(3) HAs, owners, contractors, and subcontractors must comply with all related rules, regulations, and requirements.

(c) The environmental review requirements of 24 CFR part 58, implementing the National Environmental Policy Act and related environmental laws and authorities, apply to this program.

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[Title 24, Volume 4, Parts 700 to 1699]

[Revised as of April 1, 1999]

From the U.S. Government Printing Office via GPO Access

[CITE: 24CFR882.805]

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Sec. 882.805 HA application process, ACC execution, and pre-rehabilitation activities.

(a) Review. When funds are made available for assistance, HUD will publish a notice of funding availability (NOFA) in the Federal Register in accordance with the requirements of 24 CFR part 4. HUD will review and screen applications in accordance with the guidelines, rating criteria, and procedures published in the NOFA.

(b) ACC Execution. (1) Before execution of the annual contributions contract (ACC), the HA must submit to the appropriate HUD field office the following:

(i) Estimates of Required Annual Contributions, Forms HUD-52672 and HUD-52673;

(ii) Administrative Plan, which should include:

- (A) Procedures for tenant outreach;
- (B) A policy governing temporary relocation; and
- (C) A mechanism to monitor the provision of supportive services.

(iii) Proposed Schedule of Allowances for Tenant-Furnished Utilities and Other Services, Form HUD-52667, with a justification of the amounts proposed;

(iv) If applicable, proposed variations to the acceptability criteria of the Housing Quality Standards (see Sec. 882.803(b)); and

(v) The fire and building code applicable to each structure.

(2) After HUD has approved the HA's application, the review and comment requirements of 24 CFR part 791 have been complied with, and the HA has submitted (and HUD has approved) the items required by paragraph

(b)(1) of this section, HUD and the HA must execute the ACC in the form prescribed by HUD. The initial term of the ACC must be 11 years. This term allows one year to rehabilitate the units and place them under a 10-year HAP contract. The ACC must give HUD the option to renew the ACC for an additional 10 years.

(3) Section 882.403(a) (Maximum Total ACC Commitments) applies to this program.

(4) Section 882.403(b) (Project account) applies to this program.

(c)(1) If an owner is proposing to accomplish at least \$3000 per unit of rehabilitation by including work to make the unit(s) accessible to a person with disabilities occupying the unit(s) or expected to occupy the unit(s), the PHA may approve such units not to exceed 5 percent of the units under its Program, provided that accessible units are necessary to meet the requirements of 24 CFR part 8, which implements section 504 of the Rehabilitation Act of 1973. The rehabilitation must make the unit(s), and access and egress to the unit(s), barrier-free with respect to the disability of the individual in residence or expected to be in residence.

(2) The PHA must take the applications and determine the eligibility of all tenants residing in the approved units who wish to apply for the Program. After eligibility of all the tenants has been determined, the Owner must be informed of any adjustment in the number of units to be assisted. In order to make the most efficient use of housing assistance funds, an Agreement may not be entered into covering any unit occupied by a family which is not eligible to receive housing assistance payments. Therefore, the number of units approved by the PHA for a particular proposal must be adjusted to exclude any unit(s) determined by the PHA to be occupied by a family not eligible to receive housing assistance payments. Eligible Families must also be briefed at this stage as to their rights and responsibilities under the Program.

(3) Should the Owner agree with the assessment of the PHA as to the work that must be accomplished, the preliminary feasibility of the proposal, and the number of units to be assisted, the Owner, with the assistance of the PHA where necessary, must prepare detailed work write-ups including specifications and plans (where necessary) so that a cost estimate may be prepared. The work write-up will describe how the deficiencies eligible for amortization through the Contract Rents are to be corrected including minimum acceptable levels of workmanship and materials. From this work write-up, the Owner, with the assistance of the PHA, must prepare a cost estimate for the accomplishment of all specified items.

(4) The owner is responsible for selecting a competent contractor to undertake the rehabilitation. The PHA must propose opportunities for minority contractors to participate in the program.

(5) The PHA must discuss with the Owner the various financing options available. The terms of the financing must be approved by the PHA in accordance with standards prescribed by HUD.

(6) Before execution of the Agreement, the HA must:

(i)(A) Inspect the structure to determine the specific work items that need to be accomplished to bring the units to be assisted up to the Housing Quality Standards (see Sec. 882.803(b)) or other standards approved by HUD;

(B) Conduct a feasibility analysis, and determine whether cost-effective energy conserving improvements can be added;

(C) Ensure that the owner prepares the work write-ups and cost estimates required by paragraph (c)(3) of this section;

(D) Determine initial base rents and contract rents;

(ii) Assure that the owner has selected a contractor in accordance with paragraph (c)(4) of this section;

(iii) After the financing and a contractor are obtained, determine whether the costs can be covered by initial contract rents, computed in accordance with paragraph (d) of this section; and, if a structure contains more than 50 units to be assisted, submit the base rent and contract rent calculations to the appropriate HUD field office for review and approval in sufficient time for execution of the Agreement in a timely manner;

(iv) Obtain firm commitments to provide necessary supportive services;

(v) Obtain firm commitments for other resources to be provided;

(vi) Determine that the \$3,000 minimum amount of work requirement and other requirements in paragraph (c)(1) of this section are met;

(vii) Determine eligibility of current tenants, and select the units to be assisted, in accordance with paragraph (c)(2) of this section;

(viii) Comply with the financing requirements in paragraph (c)(5) of this section;

(ix) Assure compliance with all other applicable requirements of this subpart; and

(x) If the HA determines that any structure proposed in its application is infeasible, or the HA proposes to select a different structure for any other reason, the HA must submit information for the proposed alternative structure to HUD for review and approval. HUD will rate the proposed structure in accordance with procedures in the applicable notice of funding availability. The HA may not proceed with processing for the proposed structure or execute an Agreement until HUD notifies the HA that HUD has approved the proposed alternative structure and that all requirements have been met.

(d) Initial contract rents. Section 882.408 (Initial contract rents), including the establishment of fair market rents for SRO units at 75 percent of the O-bedroom Moderate Rehabilitation Fair Market Rent, applies to this program, except as follows:

(1)(i) In determining the monthly cost of a rehabilitation loan, in accordance with Sec. 882.408(c)(2), a loan term of a least 10 years (instead of 15 years) may be used. The exception in Sec. 882.408(c)(2)(iii) for using the actual loan term if the total amount of the rehabilitation is less than \$15,000 continues to apply. In addition, the cost of the rehabilitation that may be included for the purpose of calculating the amount of the initial contract rent for any unit must not exceed the lower of:

(A) The projected cost of rehabilitation; or

(B) The per unit cost limitation that is established by Federal Register notice, plus the cost of the fire and safety improvements required by 24 CFR 982.605(b)(4). HUD may, however, increase the limitation in paragraph (d)(1)(i)(B) of this section by an amount HUD determines is reasonable and necessary to accommodate special local conditions, including high construction costs or stringent fire or building codes. HUD will publish future cost limitation changes in the Federal Register in the Notice of Funding Availability issued each year.

(ii) If the Federal Housing Administration (FHA) believes that high construction costs warrant an increase in the per unit cost limitation in paragraph (d)(1)(i)(B) of this section, the HA must demonstrate to HUD's satisfaction that a higher average per unit amount is necessary to conduct this program, and that every appropriate step has been taken to contain the amount of the rehabilitation within the published per unit cost limitation established at that time, plus the cost of the required fire and safety improvements. These higher amounts will be determined as follows:

(A) HUD may approve a higher per unit amount up to, but not to exceed, an amount computed by multiplying the HUD-approved High Cost Percentage for Base Cities (used for computing FHA high cost area adjustments) for the area, by the current published cost limitation plus the cost of the required fire and safety improvements.

(B) HUD may, on a structure-by-structure basis, increase the level approved in paragraph (d)(1)(i) of this section to up to an amount computed by multiplying 2.4 by the current published cost limitation plus the cost of the required fire and safety improvements.

(2) In approving changes to initial contract rents during rehabilitation in accordance with Sec. 882.408(d), the revised initial contract rents may not reflect an average per unit rehabilitation cost that exceeds the limitation specified in paragraph (d)(1) of this section.

(3) If the structure contains four or fewer SRO units, the Fair Market Rent for that size structure (the Fair Market Rent for a 1-, 2-, 3-, or 4-bedroom unit, as applicable) must be used to determine the Fair Market Rent limitation instead of using the separate Fair Market Rent for each SRO unit. To determine the Fair Market Rent limitation for each SRO unit, the Fair Market Rent for the structure must be apportioned equally to each SRO unit.

(4) Contract rents must not include the costs of providing supportive services, transportation, furniture, or other nonhousing costs, as determined by HUD. SRO program assistance may be used for efficiency units selected for rehabilitation under this program, but the gross rent (contract rent plus any Utility Allowance) for these units will be no higher than for SRO units (i.e., 75 percent of the 0-bedroom Moderate Rehabilitation Fair Market Rent).

(Approved by the Office of Management and Budget under control number 2506-0131)

[61 FR 48057, Sept. 11, 1996, as amended at 63 FR 23855, Apr. 30, 1998]

[Code of Federal Regulations]

[Title 24, Volume 4, Parts 700 to 1699]

[Revised as of April 1, 1999]

From the U.S. Government Printing Office via GPO Access

[CITE: 24CFR882.806]

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Sec. 882.806 Agreement to enter into housing assistance payments contract.

(a) Rehabilitation period. (1) Agreement. Before the owner begins any rehabilitation, the HA must enter into an Agreement with the owner in the form prescribed by HUD.

(2) Timely performance of work. (i) After execution of the Agreement, the Owner must promptly proceed with the rehabilitation work as provided in the Agreement. If the work is not so commenced, diligently continued, or completed, the PHA will have the right to rescind the Agreement, or take other appropriate action.

(ii) The Agreement must provide that the work must be completed and the contract executed within 12 months of execution of the ACC. HUD may reduce the number of units or the amount of the annual contribution commitment if, in HUD's determination, the HA fails to demonstrate a good faith effort to adhere to this schedule or if other reasons justify reducing the number of units.

(3) Inspections. The PHA must inspect, as appropriate, during rehabilitation to ensure that work is proceeding on schedule and is being accomplished in accordance with the terms of the Agreement, particularly that the work meets the acceptable levels of workmanship and materials specified in the work write-up.

(4) Changes. (i) The Owner must submit to the PHA for approval any changes from the work specified in the Agreement which would alter the design or the quality of the required rehabilitation. The PHA may condition its approval of such changes on a reduction of the Contract Rents. If changes are made without prior PHA approval, the PHA may determine that Contract Rents must be reduced or that the Owner must remedy any deficiency as a condition for acceptance of the unit(s).

(ii) Contract rents may not be increased except in accordance with Secs. 882.408(d) and 882.805(d)(2).

(b) Completion of rehabilitation. (1) Notification of completion. Section 882.507(a) applies to this program.

(2) Evidence of completion. Section 882.507(b) applies to this program, except that Sec. 882.507(b)(2)(iv), concerning lead-based paint requirements, does not apply.

(3) Actual cost and rehabilitation loan certifications. Section 882.507(c) applies to this program, except that contract rents must be established in accordance with Sec. 882.805(d).

(4) Review and inspections. Section 882.507(d) applies to this program.

(5) Acceptance. Section 882.507(e) applies to this program.

(Approved by the Office of Management and Budget under control number 2502-0367)

[61 FR 48057, Sept. 11, 1996, as amended at 63 FR 23856, Apr. 30, 1998]

[Code of Federal Regulations]

[Title 24, Volume 4, Parts 700 to 1699]

[Revised as of April 1, 1999]

From the U.S. Government Printing Office via GPO Access

[CITE: 24CFR882.807]

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Sec. 882.807 Housing assistance payments contract.

(a) Time of execution. Upon PHA acceptance of the unit(s) and certifications pursuant to Sec. 882.507, the Contract will be executed

by the Owner and the PHA. The effective date must be no earlier than the PHA inspection which provides the basis for acceptance as specified in Sec. 882.507(e).

(b) Term of contract. The contract for any unit rehabilitated in accordance with this program must be for a term of 10 years. The contract must give the HA the option to renew the contract for an additional 10 years.

(c) Changes in contract rents from agreement. The contract rents may be higher or lower than those specified in the Agreement, in accordance with Sec. 882.805(d).

(d) Unleased unit(s). At the time of execution of the Contract, the Owner will be required to submit a list of dwelling unit(s) leased and not leased as of the effective date of the Contract.

(e) Contract rents at end of rehabilitation loan term. For a contract in which the initial contract rent was based upon a loan term shorter than 10 years, the contract must provide for reduction of the contract rent effective with the rent for the month following the end of the term of the rehabilitation loan. The amount of the reduction will be the monthly cost of amortization of the rehabilitation loan. This reduction should result in a new contract rent equal to the base rent plus all subsequent adjustments.

(Approved by the Office of Management and Budget under control number 2502-0367)

[61 FR 48057, Sept. 11, 1996, as amended at 63 FR 23856, Apr. 30, 1998]

[Code of Federal Regulations]

[Title 24, Volume 4, Parts 700 to 1699]

[Revised as of April 1, 1999]

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[CITE: 24CFR882.808]

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Sec. 882.808 Management.

(a) Outreach to homeless individuals and appropriate organizations. (1) The HA or the owner must undertake outreach efforts to homeless individuals so that they may be brought into the program. The outreach effort should include notification to emergency shelter providers and other organizations that could provide referrals of homeless individuals. If the owner conducts the outreach effort, the owner must notify the HA so that it may provide referrals of homeless individuals.

(2) Additional outreach concerns. If the procedures that the HA or owner intends to use to publicize the availability of this program are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, or mental or physical disability who may qualify for admission to the program, the HA or owner must establish additional procedures that will ensure that such persons are made aware of the availability of the program. The HA or owner must also adopt and implement procedures to ensure that interested persons can obtain information concerning the existence and location of services and facilities that are accessible to persons with disabilities.

(3) First priority for homeless individuals. Homeless individuals must have the first priority for occupancy of housing rehabilitated under this program.

(b) Individual participation. (1) Initial determination of individual eligibility. Section 882.514(a) applies to this program.

(2) Owner selection of individuals. The owner must rent all vacant units under contract to homeless individuals located through HA or owner outreach efforts and determined by the HA to be eligible. The owner is responsible for tenant selection and may refuse any individual, provided the owner does not unlawfully discriminate. If the owner rejects an individual, and the individual believes that the owner's rejection was the result of unlawful discrimination, the individual may request the assistance of the HA in resolving the issue and may also file a complaint with HUD's Office of Fair Housing and Equal Opportunity in accordance with 24 CFR 103.25. If the individual requests the assistance of the HA, and if the HA cannot resolve the complaint promptly, the HA should advise the individual that he or she may file a complaint with HUD, and provide the individual with the

address of the nearest HUD Office of Fair Housing and Equal Opportunity.

(3) Briefing of individuals. Section 882.514(d) applies to this program, except that Sec. 882.514(d)(1)(vi) does not apply.

(4) Continued participation of individual when contract is terminated. Section 882.514(e) applies to this program.

(5) Individuals determined by the HA to be ineligible. Section 882.514(f) applies to this program. In addition, individuals are not precluded from exercising other rights if they believe they have been discriminated against on the basis of age.

(c) Lease. Sections 882.403(d) and 882.511(a) apply to this program. In addition, the lease must limit occupancy to one eligible individual.

(d) Security and utility deposits. Section 882.414 applies to this program.

(e) Rent adjustments. Section 882.410 applies to this program.

(f) Payments for vacancies. Section 882.411 applies to this program.

(g) Subcontracting of owner services. Section 882.412 applies to this program.

(h) Responsibility of the individual. Section 882.413 applies to this program.

(i) Reexamination of individual income. (1) Regular reexaminations. The HA must reexamine the income of all individuals at least once every 12 months. After consultation with the individual and upon verification of the information, the HA must make appropriate adjustments in the Total Tenant Payment in accordance with 24 CFR part 5, subpart F, and verify that only one individual is occupying the unit. The HA must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment. At each regular reexamination, the HA must follow the requirements of 24 CFR part 5, subpart E concerning verification of immigration status of any new family member.

(2) Interim reexaminations. The individual shall supply such certification, release, information, or documentation as the PHA or HUD determines to be necessary, including submissions required for interim reexaminations of individual income and determinations as to whether only one individual is occupying the unit. In addition Sec. 882.515(b) shall apply.

(3) Continuation of Housing Assistance Payments. Section 882.515(d) applies to this program.

(j) Overcrowded units. If the HA determines that anyone other than, or in addition to, the eligible individual is occupying an SRO unit assisted under this program, the HA must take all necessary action, as

soon as reasonably feasible, to ensure that the unit is occupied by only one eligible individual.

(k) Adjustment of utility allowance. Section 882.510 applies to this program.

(l) Termination of tenancy. Section 882.511 applies to this program. For provisions requiring termination of assistance when the HA determines that a family member is not a U.S. citizen or does not have eligible immigration status, see 24 CFR part 5, subpart E for provisions concerning certain assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination of assistance, or for provisions concerning deferral of termination of assistance.

(m) Reduction of number of units covered by contract. Section 882.512 applies to this program.

(n) Maintenance, operation, and inspections. Section 882.516 applies to this program.

(o) HUD review of contract compliance. Section 882.517 applies to this program.

(p) Records and reports. Each recipient of assistance under this subpart must keep any records and make any reports that HUD may require within the timeframe required.

(q) Participation of homeless individuals. (1) Each approved applicant receiving assistance under this program, except HAs, must provide for the participation of not less than one homeless individual or formerly homeless individual on the board of directors or other equivalent policymaking entity of such applicant, to the extent that the entity considers and makes policies and decisions regarding the rehabilitation of any housing with assistance under this subpart. This requirement is waived if the applicant is unable to meet this requirement and presents a plan that HUD approves to consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(2) To the maximum extent practicable, each approved applicant must involve homeless individuals and families, through employment, volunteer services, or otherwise, in rehabilitating and operating facilities assisted under this subpart, and in providing services for occupants of such facilities.

(Approved by the Office of Management and Budget under control number 2506-0131)

[61 FR 48057, Sept. 11, 1996, as amended at 63 FR 23857, Apr. 30, 1998]

[Code of Federal Regulations]
[Title 24, Volume 4, Parts 700 to 1699]
[Revised as of April 1, 1999]
From the U.S. Government Printing Office via GPO Access
[CITE: 24CFR882.809]

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Sec. 882.809 Waivers.

Section 5.405(b) of this title does not apply to this program.

[Code of Federal Regulations]
[Title 24, Volume 4, Parts 700 to 1699]
[Revised as of April 1, 1999]
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[CITE: 24CFR882.810]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

CHAPTER VIII--OFFICE OF THE ASSISTANT SECRETARY FOR HOUSING-FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PART 882--SECTION 8 MODERATE REHABILITATION PROGRAMS- Table of Contents

Subpart H--Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals

Sec. 882.810 Displacement, relocation, and acquisition.

(a) Minimizing displacement. (1) Consistent with the other goals and objectives of this part, owners must assure that they have taken all reasonable steps to minimize the displacement of persons (households, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part. To the extent feasible, residential tenants must be provided a reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary, and affordable dwelling unit in the project upon its completion.

(2) Whenever a building/complex is rehabilitated, and some but not all of the rehabilitated units will be assisted upon completion of the rehabilitation, the relocation requirements described in this section apply to the occupants of each rehabilitated unit, whether or not Section 8 assistance will be provided for the unit.

(b) Temporary relocation. The following policies cover residential tenants who will not be required to move permanently but who must relocate temporarily for the project. Such tenants must be provided:

(1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation;

(2) Appropriate advisory services, including reasonable advance written notice of:

(i) The date and approximate duration of the temporary relocation;

(ii) The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;

(iii) The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling in the project upon completion; and

(iv) The assistance required under paragraph (b)(1) of this section.

(c) Relocation assistance for displaced persons. A "displaced person" (defined in paragraph (g) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4601-4655) and implementing regulations in 49 CFR part 24. A displaced person must be advised of his or her rights under the Fair Housing Act (42 U.S.C. 3601-19) and, if the comparable replacement dwelling used to establish the amount of the replacement housing payment to be provided to a minority is located in an area of minority concentration, such person also must be given, if possible, referrals to

comparable and suitable, decent, safe, and sanitary replacement dwellings not located in such areas.

(d) Real property acquisition requirements. The acquisition of real property for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(e) Appeals. A person who disagrees with the HA's determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the HA. A person who is dissatisfied with the HA's determination on his or her appeal may submit a written request for review of that determination to the HUD field office.

(f) Responsibility of HA. (1) The HA must certify (i.e., provide assurance of compliance as required by 49 CFR part 24) that it will comply with the URA, the regulations in 49 CFR part 24, and the requirements of this section, and must ensure such compliance notwithstanding any third party's contractual obligation to the HA to comply with these provisions.

(2) The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. Such costs may be paid for with local public funds or funds available from other sources. The cost of HA advisory services for temporary relocation of tenants to be assisted under the program also may be paid from preliminary administrative funds.

(3) The HA must maintain records in sufficient detail to demonstrate compliance with the provisions of this section. The HA must maintain data on the racial, ethnic, gender, and disability status of displaced persons.

(g) Definition of displaced person. (1) For purposes of this section, the term displaced person means a person (household, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this part. The term displaced person includes, but may not be limited to:

(i) A person who moves permanently from the real property after receiving notice requiring such move, if the move occurs on or after the date the owner submits to the HA the owner proposal that is later approved;

(ii) A person, including a person who moves from the property before the date the owner submits the proposal to the HA, if the HA or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the assisted project; or

(iii) A tenant-occupant of a dwelling unit who moves from the building/complex permanently after the execution of the Agreement between the owner and the HA (or, for projects assisted under subpart H of this part, after the ``initiation of negotiations" (see paragraph (h) of this section)), if the move occurs before the tenant is provided a written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe, and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon its completion. Such reasonable terms and conditions must include a monthly rent and estimated average monthly utility costs that do not exceed the greater of:

(A) The tenant's monthly rent before the execution of the agreement and estimated average monthly utility costs; or

(B) Thirty percent of gross household income.

(C) For projects assisted under subpart H of this part, the amount cannot exceed the greater of the tenant's monthly rent before the ``initiation of negotiations" and estimated average monthly utility costs; or (if the tenant is low-income) the total tenant payment, as determined under 24 CFR 5.613, or (if the tenant is not low-income) 30 percent of gross household income; or

(iv) A tenant-occupant of a dwelling, who is required to relocate temporarily, but does not return to the building/complex, if either:

(A) The tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation; or

(B) Other conditions of the temporary relocation are not reasonable; or

(v) A tenant-occupant of a dwelling who moves from the building/complex permanently after he or she has been required to move to another dwelling unit in the building/complex, if either:

(A) The tenant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move; or

(B) Other conditions of the move are not reasonable.

(2) Notwithstanding the provisions of paragraph (g)(1) of this section, a person does not qualify as a displaced person (and is not eligible for relocation assistance under the URA or this section), if:

(i) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State, or local law, or other good cause, and the HA determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(ii) The person moved into the property after the submission of the preliminary proposal (or application, if there is no preliminary proposal), and before signing a lease and commencing occupancy,

received written notice of the project and its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that the person would not qualify as a displaced person (or for any assistance provided under this section) as a result of the project;

(iii) The person is ineligible under 49 CFR 24.2(g)(2); or

(iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(3) The HA may request, at any time, HUD's determination of whether a displacement is or would be covered by this section.

(h) Definition of initiation of negotiations. For purposes of determining the formula for computing the replacement housing assistance to be provided to a residential tenant displaced as a direct result of private-owner rehabilitation or demolition of the real property, the term initiation of negotiations means the execution of the Agreement between the owner and the HA.

(Approved by Office of Management and Budget under OMB control number 2506-0121).

[61 FR 48056, Sept. 11, 1996. Redesignated and amended at 63 FR 23857, Apr. 30, 1998]